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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/090,064	03/01/2002	Leonard Paul	595-018-1	4642

7590  
Melvin I. Stoltz  
51 Cherry Street  
Milford, CT 06460

08/05/2003

EXAMINER

THISSELL, JEREMY

ART UNIT	PAPER NUMBER
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3763

DATE MAILED: 08/05/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

10/090,064

Applicant(s)

PAUL, LEONARD

Examiner

Jeremy T. Thissell

Art Unit

3763

-- Th MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 01 March 2002.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-17 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-8, 11 and 15 is/are rejected.
- 7) ☒ Claim(s) 9, 10, 12-14, 16 and 17 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☒ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☒ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other:

**DETAILED ACTION**

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1-4, 7, 8, and 11 are rejected under 35 U.S.C. 102(e) as being anticipated by Fasani (US 6,293,928).

Fasani teaches all the claimed subject matter including the length of the nozzle (col. 3, line 9).

Claims 1-4, 7, 8, and 15 are rejected under 35 U.S.C. 102(b) as being anticipated by Packer et al (US 3,968,797).

Packer teaches all the claimed subject matter, including the check valve (col. 7, line 67).

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 5 is rejected under 35 U.S.C. 103(a) as being unpatentable over Packer in view of Sneider (US 4,168,032).

Packer teaches all the claimed subject matter except for the tapered shape of the nozzle. Sneider teaches a tapered nozzle as claimed. It would have been obvious to one of ordinary skill in the art to form the device of Packer with the tapered nozzle of Sneider so as to facilitate use of the device for enemas as well as vaginal douching. Note that Sneider is used for both, and offers differently shaped nozzles for each use.

Claim 6 is rejected under 35 U.S.C. 103(a) as being unpatentable over Packer in view of Reddick (US 4,894,053).

Packer teaches all the claimed subject matter except for having a uniform diameter nozzle. Reddick teaches a douche apparatus having a nozzle with a uniform diameter as claimed. It would have been obvious to form the nozzle of Packer with a uniform diameter nozzle as in Reddick as an obvious design choice of shape, the uniform diameter offering the advantage of simplified manufacturing.

***Allowable Subject Matter***

Claims 9, 10, 12-14, 16, and 17 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

The prior art does not teach the inner and outer diameters claimed in claims 9, 10, and 12. Most of the prior art is silent with regard to the sizing of the nozzle walls. The only disclosure of sizing was found in Fasani, whose sizing was much larger than the claimed dimensions. Additionally, applicant offers criticality of the claimed dimensions with regard to fluid dynamics of the device. Such criticality is discussed on pages 22-23 of the specification.

The prior art also does not teach the claimed valve structure with a cap/disk configuration. Some prior art discloses ball valves, but none have a disk.

The prior art also does not teach the douche composition as claimed. It is apparent from the prior art that each of the 5 essential components (citric acid, nonoxynol-9 or octoxynol-9, glycerine, povidone iodine (e.g. betadine), and deionized water) have each been known to be used in douche solutions. However, none of the prior art teaches use of all 5. At most one may find 3 of the five components in a particular prior art douche solution. Thus, it is the combination of these components that renders claims 13 and 14 allowable.

Art Unit: 3763

**Contacts**

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jeremy T. Thissell whose telephone number is (703) 305-5261. The examiner can normally be reached on 8:30-7:00 Monday through Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Brian Casler can be reached at (703) 308-3552. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 872-9302 for regular communications and (703) 872-9303 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1148.

jt  
July 28, 2003



**MICHAEL J. HAYES  
PRIMARY EXAMINER**